

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

GP03-07-09, General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) on a 6.2 acre site, located on the southeast corner of Senter Road and Needles Drive (DDD Partners, Owner, Henry Cord Developer). Council District: 7.

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **November 29, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 10, 2004** and ends on **November 29, 2004**.

A public hearing on the project described above is tentatively scheduled for **November 29, 2004 at 6pm** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Branch Library, 1102 E. Santa Clara Street San José, CA 95116 San Jose, and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **David Tymn** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 10, 2004

Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: DiNapoli General Plan Amendment

PROJECT FILE NUMBER: GP03-07-09

PROJECT DESCRIPTION: General Plan Amendment to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to High Density Residential (25-50 DU/AC) on a 6.2 acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The subject property is located on the southeast corner of Senter Road and Needles Drive; 477-20-133, 147, 148.

COUNCIL DISTRICT: 7

NAME OF APPLICANT: Synergy Properties, LLC

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:
Tim Nieuwsma, 900 E. Hamilton Avenue, # 100, Campbell, CA 95008, 408-999-7353

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Air Quality:

- *Transportation Policy #8* states that vehicular, bicycle, and pedestrian safety should be an important factor in the design of streets and roadways.

- *Transportation Policy #21* states that all non-rural portions of San José should have a continuous sidewalk network. Existing deficiencies in the City's sidewalks should be addressed through the Capital Improvement Program or other funding mechanisms.
- *Transportation Policy #51* states that bike lanes are considered generally appropriate on arterial and major collector streets. Right-of-way requirements for bike lanes should be considered in conjunction with planning the major thoroughfares network and in implementing street improvement projects.
- *Transportation Policy #55* states that bicycle safety should be taken into consideration when implementing improvements for automobile traffic operations.
- *Air Quality Policy #1* states the City should take into consideration the cumulative air quality impacts from proposed development and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.
- *Air Quality Policy #6* states that the City should continue to enforce its ozone-depleting compound ordinance and supporting policy to ban the use of chlorofluorocarbon compounds (CFCs) in building construction.

Biological Resources:

- *Urban Forest Policy # 2* states development projects should include the preservation of ordinance-sized and other significant trees. Any adverse effect on the health and longevity of native oaks, ordinance-sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible; the project should include appropriate tree replacement. In support of these policies the City should:
 - Continue to implement the Heritage Tree Program and the Tree Removal Ordinance.
 - Consider the adoption of Tree Protection Standards and Tree Removal Mitigation Guidelines.
- *Urban Forest Policy #3* states the City should encourage the maintenance of mature trees on public and private property as an integral part of the urban forest. Prior to allowing the removal of any mature tree, all reasonable measures which can effectively preserve the tree should be pursued.
- *Urban Forest Policy #4* states that in order to realize the goal of providing street trees along all residential streets, the City should:
 - Continue to update, as necessary, the master plan for street trees, which identifies approved species.
 - Require the planting and maintenance of street trees as a condition of development.
 - Continue the program for management and conservation of street trees, which catalogs street tree stock replacement and rejuvenation.

- *Urban Forest Policy #5* states that the City should encourage the selection of trees appropriate for a particular urban site. Tree placement should consider energy saving values, nearby power lines, and root characteristics.
- *Urban Forest Policy #6* states that trees used for new plantings in urban areas should be selected primarily from species with low water requirements.
- *Urban Forest Policy #7* states that, where appropriate, trees that benefit urban wildlife species by providing food or cover should be incorporated in urban plantings.

Cultural Resources

- *Historic, Archaeological, and Cultural Resources Policy #1* states that because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
- *Historic, Archaeological and Cultural Resources Policy #8* states that for proposed development, sites which have been identified as archaeologically sensitive, the City should require an investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.
- *Historic, Archaeological and Cultural Resources Policy #9* states that recognizing that native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that, upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

Geology and Soils

- *Earthquake Policy #1* states that the City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.
- *Earthquake Policy #3* states that the City should only approve new development in areas of identified seismic hazard if such hazard can be appropriately mitigated.
- *Earthquake Policy #5* states that the City should continue to require geotechnical studies for development proposals; such studies should determine the actual extent of seismic hazards, optimum location for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.
- *Soils and Geology Conditions Policy #1* states that the City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.
- *Soils and Geologic Conditions Policy #6* states that development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.

- *Soils and Geologic Conditions Policy #8* states that development within areas of potential geologic hazards should not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties.

Hazards and Hazardous Materials

- *Hazardous Materials Policy #1* states that the City should require proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal.
- *Hazardous Materials Policy #3* states that the City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.
- *Soil and Geologic Conditions Policy #9* states that residential development proposed on property formerly used for agricultural or heavy industrial uses should incorporate adequate mitigation/remediation for soils contamination as recommended through the Development Review process.
- *Water Resources Policy #8* states that the City should establish non-point source pollution control measures and programs to adequately control the discharge of pollutants into the City's storm sewers

Hydrology and Water Quality

- *Community Development, Residential Land Use, Policy # 5* states that residential development should be allowed in areas with identified hazards to human habitation only if these hazards are adequately mitigated.
- *Water Resources Policy #8* encourages the City to establish policies, programs and guidelines to adequately control the discharge of urban runoff and other pollutants into the City's storm drains.
- *Water Resources Policy #9* states the City should take a pro-active role in the implementation of the Santa Clara Valley Runoff Pollution Prevention Program.
- *Water Resources Policy #10* states that the City should encourage a more efficient use of water by promoting water techniques and the use of water-saving devices.
- *Flooding Policy #1* requires new development to provide flood protection (on-site and downstream) from the 100-year flood.
- *Flooding Policy #6* states that the City should support State and Federal legislation which provides funding for the construction of flood control improvements in urbanized areas.

- *Flooding Policy #7* states that the City should require new urban development to provide adequate flood control retention facilities.
- *Bay and Baylands Policy #5* states the City should continue to participate in the Santa Clara Valley Non-Point Source Pollution Control Program and take other necessary actions to formulate and meet regional water quality standards which are implemented through the National Pollution Discharge Elimination System Permits and other measures.

Land Use

- *Residential Land Use Policy #2* states residential neighborhoods should be protected from the encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment. In particular, non-residential uses which generate significant amounts of traffic should be located only where they can take primary access from an arterial street.
- *Residential Land Use Policy #5* states that residential development should be allowed in areas with identified hazards to human habitation only if these hazards are adequately mitigated.
- *Residential Land Use Policy #9* states when changes in residential densities are proposed, the City should consider such factors as neighborhood character and identity, compatibility of land uses and impacts on livability, impacts on services and facilities, including school, to the extent permitted by law, accessibility to transit facilities, and impacts on traffic levels on both neighborhood streets and major thoroughfares.
- *Urban Design Policy #1* states that the City should continue to apply strong architectural and site design controls on all types of development to ensure the proper transition between areas with different types of land uses.
- *Urban Design Policy #4* states residential developments which are adjacent to parks or open spaces should be encouraged to provide direct access to, and common open space contiguous to, such areas.
- *Urban Design Policy #10* states the maximum building heights set forth are intended to address urban design considerations only. Other factors, such as compatibility with nearby land uses, may result in more restrictive height limitations. Building height, including all elements of a building whether occupied space or building features, should not exceed 50 feet.
- *Urban Design Policy #18* states to the extent feasible, sound attenuation for development along city streets should be accomplished through the use of landscaping, setbacks, and building design rather than the use of sound attenuation walls. Where sound attenuation walls are deemed necessary, landscaping and an aesthetically pleasing design shall be used to minimize visual impact.
- *Urban Design Policy #22* states that design guidelines adopted by the City Council should be followed in the design of development projects.

Noise

- *Noise Policy #1* states that the City's acceptable noise levels are 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport will probably not be achieved in the time frame of the General Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction, and noise attenuation techniques in new development.
- *Noise Policy #9* states that construction operations should use noise suppression devices and techniques.
- *Noise Policy #12* states that noise studies should be required for land use proposals where known or suspected peak event noise sources occur which may impact adjacent existing or planned land uses.
- *Urban Design Policy #18* states that to the extent feasible, sound attenuation for development along city streets should be accomplished through the use of landscaping, setbacks, and building design rather than the use of sound attenuation walls.

State Law

All new development would be subject to existing law, including the following:

- *Title 24*: Multi-family housing proposed on any site is subject to the requirements of Title 24, Part 2, of the State Building Code. Because noise levels exceed 60 dB Ldn on the project site, an analysis detailing the treatments incorporated into the building plans shall be prepared and submitted to the City Building Department prior to issuance of a building permit. The report shall demonstrate that the design would achieve an interior Ldn of 45 dBA or less in all habitable residential areas.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 29, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100

filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: ~~November 9, 2004~~

Deputy

Adopted on: _____

Deputy

MND/JAC 12/29/03